

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Dick Van Den Broeke,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-0960
Parcel No. 161/00195-003-000

On February 15, 2013, the above captioned appeal came for consideration before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Dick Van Ben Broeke was self-represented and requested a written consideration. Assistant County Attorneys Ralph Marasco, Jr. and David Hibbard represent the Polk County Board of Review. The Appeal Board having reviewed the record and being fully advised finds:

Findings of Fact

Dick Van Den Broeke is the owner of a residential, single-family property located at 205 West Maple Street, Runnells, Iowa. The property is a two-story home built in 2000 with 2213 total square feet of living area. Additionally, the dwelling has a 192 square-foot deck and a 108 square-foot open porch. Other site improvements include a 594 square-foot attached garage. The improvements are of good quality, grade (3-10) and in normal condition. The site is 0.289 acres.

Van Den Broeke protested to the Polk County Board of Review regarding the 2011 assessment of \$202,300, allocated as \$18,800 in land value and \$183,500 in improvement value. His claim was based on the grounds that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), and that there was a change in value since the last assessment

under sections 441.37(1)(b) and 441.35(2). In a reassessment year a challenge based on downward change in value is akin to a market claim under section 441.37(1)(a)(2). He asserted the property's total correct value was \$180,000. The Board of Review denied his claim.

Van Den Broeke then appealed to this Board reasserting his claim. He now contends the correct value is \$189,000.

Van Den Broeke's evidence includes an appraisal completed by Connie Sue Clark-Louderback of A1 Appraisals, Inc., Knoxville, IA, with an effective date of February 25, 2010. We note that only the first three pages of the appraisal were provided to the Board of Review.¹ The appraisal indicates a value of \$182,000 by the sales comparison approach and \$189,979 by the cost approach. Clark-Louderback opined a final opinion of value of \$182,000 for the subject property.

Clark-Louderback used four 2009 sales of two-story, frame dwellings located in Runnells, as summarized below.

<u>Comparable</u>	<u>Address</u>	<u>TSFLA</u>	<u>Sale Date</u>	<u>Sale Price</u>	<u>Adjusted Sale Price</u>
Subject		2213			
1	305 Marshall Ct	1960	5/15/2009	\$165,000	\$181,830
2	309 Person St	1788	11/10/2009	\$161,900	\$181,687
3	12733 SE 64th Ave	2240	7/28/2009	\$176,900	\$178,380
4	3083 SE Jarvis Ln	2450	4/6/2009	\$250,000	\$189,480

According to the Board of Review Appraiser Analysis, two of the sales used in the appraisal were not normal, arm's length transactions. The record evidence shows the sale of Comparable 1 (305 Marshall Court) was a bank sale, likely resulting from default or foreclosure. The record also indicates the sale of Comparable 3 (12733 SE 64th Avenue) was a transfer involving an administrator, guardian or conservator. The Supplemental Addendum to Clark-Louderback's appraisal confirms the Board of Review's position. It indicates that Comparable 1 was a bank sale and Comparable 3 was a short sale.

¹ Van Den Broeke did not initially provide the complete appraisal to this Board. PAAB requested the complete appraisal in an order dated February 21, 2013, and it was submitted for this consideration.

Both of these sales would be considered abnormal transactions. Under Iowa Code section 441.21(1)(b), sale prices of properties in abnormal transactions not reflecting market value shall not be taken into account, or must be adjusted to account for any distorting factors. Clark-Louderback made no adjustments to account for any distorting effects the nature of the sales transaction may have had on the sale price and, as a result, we do not consider Comparables 1 and 3.

Comparables 2 and 4, however, are normal, arm's length transactions. Clark-Louderback made adjustments to account for differences in size, age, and amenities between the comparables and the subject property. Comparable 2 (309 Person Street) and Comparable 4 (3083 SE Jarvis Lane) both have an adjusted sale price below the subject property's assessed value.

In addition to Van Den Broeke's comparables, the record also includes two normal, arm's length sales of comparable properties utilized by the Board of Review (401 Crestview Drive and 100 Rolling Prairie Drive). 401 Crestview Drive sold in March 2010 for \$129,500 and 100 Rolling Prairie Drive sold in November 2009 for \$165,000. The assessor's office made adjustments to account for differences in date of sale, size, quality, age, and other amenities to these comparables and calculated adjusted sale prices of \$185,015 for 401 Crestview Drive and \$201,185 for 100 Rolling Prairie Drive.

Ultimately, the evidence includes four, normal sales transactions adjusted to account for differences between the comparables and the subject property. The median adjusted sale price of the comparables is \$187,248 and the average adjusted sale price of the comparables is \$189,342.

<u>Comparable</u>	<u>Address</u>	<u>TSFLA</u>	<u>Sale Date</u>	<u>Sale Price</u>	<u>Adjusted Sale Price</u>
2	309 Person St	1788	11/10/2009	\$161,900	\$181,687
4	3083 SE Jarvis Ln	2450	4/6/2009	\$250,000	\$189,480
BOR 1	401 Crestview Dr	982	3/26/2010	\$129,500	\$185,015
BOR 2	100 Rolling Prairie Dr	1480	11/19/2009	\$165,000	\$201,185

Although we are generally hesitant to rely on 2009 and early 2010 sales without time-of-sale adjustments in a challenge to a 2011 assessment, we find the evidence indicates that these sales may

nonetheless be an accurate reflection of the subject property's value as of January 1, 2011. Clark-Louderback expanded her search for comparables to a twelve month time-frame due limited sales in Runnells and the surrounding area, but she noted that there was little appreciation or depreciation in sales over this period and therefore no time adjustment was made. (Supplemental Addendum). She also indicates that the market for homes in the neighborhood is "stable" and primarily consists of existing dwellings with little new construction. (Supplemental Addendum).

Clark-Louderback's conclusion is supported by a listing of properties and their assessed values included in the record evidence. The listing suggests a trend toward reduced assessed values on properties in Runnells from 2009 to 2011. For example, of the twenty-six properties with 2009 assessed values greater than \$150,000, only seven had their assessments raised in 2011. The listing also details six sales of improved, residential properties since January 1, 2009. Although there is scant evidence as to the comparability of these properties, we note that only one sold in excess of its 2009 assessed value. Altogether this evidence indicates that market values of properties in this area remained stable or may have slightly declined from 2009 to 2011.

Based on the totality of the evidence, we find that the subject property's assessment is excessive and its fair market value as of January 1, 2011, is \$189,000.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Considering Van Den Broeke's Comparables 2 and 4 in conjunction with the Board of Review's comparables (401 Crestview Drive and 100 Rolling Prairie Drive), the subject property's assessment is excessive. All of these sales were normal, arm's length transactions which had adjusted sale prices below the subject property's assessed value of \$202,300.

Having found that the subject property's assessment is excessive, we must also determine if Van Den Broeke provided sufficient evidence to support his contention that the property's correct value is \$189,000. Between Clark-Louderback's appraisal and the Board of Review's comparables, the evidence contains four normal, adjusted sales which occurred between April 2009 and March 2010.

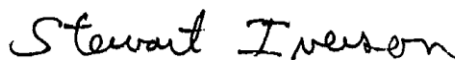
While we normally would not rely on sales which occurred in 2009 and early 2010 in determining the subject's value as of January 1, 2011, Clark-Louderback's appraisal indicates that there were limited sales in Runnells and the surrounding area. Her market research also indicated there was little appreciation or depreciation in housing sales in the twelve months preceding the appraisal's effective date of February 2010. Additionally, Clark-Louderback stated that the market for properties in the subject's neighborhood was stable. Further, the listing of assessed values and sales of properties in Runnells included in the record evidence indicates that property values in the community remained stable or may have slightly declined between 2009 and 2011. We find the fact that the Board of Review also relied on a 2009 sale further supports her position. For these reasons, we determine the four sales comparables are reflective of the property's fair market value as of January 1, 2011.

In light of Clark-Louderback's final opinion of value and analysis of the four sales comparables, there is sufficient evidence to support Van Den Broeke's conclusion that the subject property's fair market value as of January 1, 2011 is \$189,000. The median adjusted sale price of the four sales comparables is \$187,248 and the average adjusted sale price of the comparables is \$189,342. Finally, Clark-Louderback concluded a value of \$182,000 by the sales comparison approach and \$189,979 by the cost approach, and opined a final opinion of value of \$182,000 for the subject property.

Viewing the evidence as a whole, we find that Van Den Broeke has provided sufficient evidence showing the property's assessment is excessive and its correct value as of January 1, 2011, is \$189,000.

THE APPEAL BOARD ORDERS the January 1, 2011, assessment of the Board of Review is modified to a total value of \$189,000, allocated \$18,800 in land value and \$170,200 in improvement value as of January 1, 2011. The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Polk County Auditor and all tax records, assessment books, and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 14th day of March 2013.



Stewart Iverson, Presiding Officer



Jacqueline Rypma, Board Member



Karen Oberman, Board Member

Copies to:

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Certificate of Service

The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on March 14, 2013.

By: ☒ U.S. Mail ☐ FAX
☐ Hand Delivered ☐ Overnight Courier
☐ Certified Mail ☐ Other



Signature